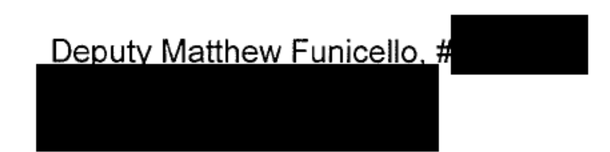



LEROY D. BACA, SHERIFF

County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169




July 29, 2013


Deputy Matthew Funicello, #[redacted]
[redacted]

Dear Deputy Funicello:

On July 3, 2013, you were served with a Letter of Intention indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under File Number IAB 2305615. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond. However, after review and consideration of the response submitted to support your position, it has been determined that the recommended discipline is appropriate.

You are hereby notified that you were discharged from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective as of the close of business on July 25, 2013.

An investigation under IAB File Number IV2305615, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/050.10, Performance to Standards; and/or 3-01/030.10, Obedience to Laws, Regulations, and Orders [as it pertains to 5-09/430.00, Use of Force Reporting, and/or 149 P.C., Assault under the Color of Authority]; and/or 3-01/030.15, Conduct Toward Others; and/or 3-01/025.10, Unreasonable Force; and/or 3-01/030.85, Derogatory Language; and/or 3-01/030.05, General Behavior, on or about July 21, 2011, while on duty, you willfully failed to conform to the work standards established for your rank and position as a deputy sheriff when you yelled at and directed

derogatory language toward [redacted] an inmate in the custody of the Los Angeles County Sheriff's Department who was apparently suffering from mental illness; and/or failed to safeguard and treat [redacted] in a respectful, courteous, and civil manner when you used unnecessary and excessive force against [redacted] as [redacted] was handcuffed and seated in the rear seat of a patrol car, and under your control and custody. You failed to report to a Department supervisor, and/or document the circumstances in which you used force against [redacted] and/or failed to obtain medical treatment for [redacted] after assaulting him. On April 11, 2013, after the District Attorney's Office filed charges in the Los Angeles Superior Court (case # BA409956), a warrant was issued naming you for one felony count of 149 P.C., Assault by a Public Officer. You were booked regarding the arrest warrant bringing discredit to yourself and/or the Department as evidenced by, but not limited to:

a. referring to [redacted] as a nigger, and/or coon, and stating to [redacted] "Shut the fuck up," " Learn your place," "When I tell you to shut the fuck up, then shut the fuck up," and "I'm not your fucking dawg,'" and/or words to that effect; and/or, failing to recognize that [redacted] was suffering from mental illness and appropriately addressing [redacted] behavior in accordance to the standards, protocols, and expectations of the Department; and/or,

b. striking [redacted] with your hands and fist approximately six times about the face and body; and/or,

c. transporting and transferring [redacted] to the Twin Towers Correctional Facility without seeking medical attention for [redacted] and/or alerting the medical staff at Twin Towers Correctional Facility that force was used on [redacted] and/or,

d. failing to report your use of force against [redacted] to a Department supervisor, and/or document the use of force; and/or,

e. being named as a suspect regarding 149 P.C., Assault by a Public Officer against [redacted]

2. That in violation of Manual of Policy and Procedures Sections 3-01/050.10, Performance to Standards; and/or 3-01/000.10, Professional Conduct; and/or 3-01/040.97, Safeguarding Persons in Custody, on or about July 21, 2011, while on duty, you failed to conform to the work standards established for your rank and position as a deputy sheriff when you failed to safeguard [redacted] and [redacted] who were both in the custody of the Los Angeles County Sheriff's Department and passengers in your vehicle. You willfully drove your patrol vehicle at speeds in excess of 90 miles per hour, and/or in an unsafe manner abruptly engaged the vehicle's brakes causing [redacted] and [redacted] who were in the rear seat, to involuntarily lunge forward as the vehicle crossed over at least three lanes of highway traffic before stopping. You also entered into the rear seat portion of the vehicle and assaulted [redacted] causing [redacted]s body weight to push against [redacted] as he was avoiding your assault. [redacted] and [redacted] were handcuffed and confined to the rear seat of the patrol vehicle and she was unable to remove herself from the vehicle. Your conduct was in conflict with the Department's Core Values as you failed to perform your duties honorably, treat [redacted] and [redacted] in a respectful manner, and/or use common sense when interacting with [redacted] who displayed signs of mental illness and mental instability. You caused undue embarrassment and/or damaged the reputation of the Department and/or eroded the public's confidence in the Department.

3. That in violation of Manual of Policy and Procedures Section 3-01/040.70, False Statements, on or about October 2011, you made false statements when questioned regarding a Watch Commander's Service Comment Report (200681) which alleged you assaulted [redacted] on July 21, 2011, as evidenced by, but not limited to:

   a. stating to Lieutenant Paul Clay that nothing happened when you transported [redacted] and [redacted] from Palmdale Sheriff's Station to the Twin Towers Correctional Facility, and Century Regional Detention Facility, and/or words to that effect; and/or,

   b. stating to Lieutenant Paul Clay, that you never stopped your vehicle when transporting [redacted] and

[redacted] from Palmdale Sheriff's Station to the Twin Towers Correctional Facility and Century Regional Detention Facility, and/or words to that effect; and/or,

c. stating to Lieutenant Paul Clay that you never struck [redacted] with your fist or weapons, and/or words to that effect.

4. That in violation of Manual of Policy and Procedures Section 3-01/040.70, False Statements, on or about January 5, 2012, you made false statements when questioned regarding a Watch Commander's Service Comment Report (200681) which alleged you assaulted [redacted] on July 21, 2011, as evidenced by, but not limited to:

   a. stating to Lieutenant Paul Clay that you pulled the patrol car over in order to engage the seatbelt for [redacted] as you transported [redacted] and [redacted] from Palmdale Sheriff's Station to the Twin Towers Correctional Facility and Century Regional Detention Facility.

5. That in violation of Manual of Policy and Procedures Section 3-01/040.75 Failure to Make Statements and/or Making False Statements During Departmental Investigations, on or about January 13, 2013, you failed to make full, complete, and/or truthful statements during a Departmental interview when you stated, "Yes sir," to investigators when asked if the statements you provided to Lieutenant Paul Clay on or about October 2011, regarding Watch Commander's Service Comment Report (200681) were accurate, and/or stated you agreed your statement to Lieutenant Paul Clay that you never stopped your vehicle and/or struck [redacted] with a weapon or fist was accurate, and/or words to that effect.

6. That in violation of Manual of Policy and Procedures Section 3-01/040.75 Failure to Make Statements and/or Making False Statements During Departmental Investigations, on or about February 14, 2013, you failed to make full, complete, and/or truthful statements during a departmental interview regarding an allegation of use of force against [redacted] as evidenced by, but not limited to:

a. stating, "Yes, ma'am", when asked if you pulled to the shoulder of the 405 freeway in order to fasten [redacted]s seatbelt, and/or words to that effect; and/or,

b. stating, "Yes, as safely and as quickly as I could. I didn't, you know, I didn't pull a NASCAR or nothing", when asked if you made a quick exit off to the shoulder of the freeway, and/or words to that effect; and/or,

c. stating "Yes, yeah," when it was suggested that you drove the patrol vehicle carrying [redacted] and [redacted] at 70 miles an hour, and/or words to that effect; and/or,

d. stating, "I reached in to grab him and he looked as if he was going to spit at me again, and so I pushed his head back and so he wouldn't spit at me, and held him there, so I can get the seatbelt back on him," and/or words to that effect; and/or,

e. stating, "Yes," when asked if [redacted] spit at you when he opened the car door, and/or words to that effect; and/or,

f. stating, "I wouldn't, no. I don't remember yelling at him. I just – remember telling him very forceful, forcefully," when asked if you were yelling at [redacted] and/or words to that effect; and/or,

g. stating, "No," when asked if you referred to [redacted] as a nigger or coon, and/or words to that effect; and/or,

h. stating, "No, ma'am," when asked if you felt it was necessary to report this incident, and/or words to that effect; and/or,

7. That in violation of Manual of Policy and Procedures Section 3-01/040.76, Obstructing an Investigation/Influencing a Witness, on or about July 21, 2011, you took action that could have interfered with, delayed, obstructed, distorted, or unduly influenced an investigation when you confronted [redacted] at the Century Regional Detention Facility as evidenced by, but not limited to:

a. attempting to apologize to [redacted] by explaining to her that, "sometimes guys needed to learn their place," and/or words to that effect; and/or,

b. questioning if [redacted] was okay as you told her they were sorry she had to see any of this, and explaining that, "They don't conduct business like this," and/or words to that effect; and/or,

c. asking [redacted] if, "this is gonna be over," and/or words to that effect; and/or,

d. stating to [redacted] "This has never happened," and or words to that effect.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

In taking this disciplinary action, your record with this Department has been considered, and a thorough review of this incident has been made by Department executives, including your Unit and Division Commanders.

You may appeal the Department's action in this matter pursuant to Rules 4.02, 4.05 and 18.02 of the Civil Service Rules.

You may, if you so desire, within fifteen (15) business days from the date of service of this notice of discharge, request a hearing on these charges before the Los Angeles County Civil Service Commission, 222 North Grand Avenue, Los Angeles, California 90012.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

JACQUES A. LA BERGE, CHIEF
NORTH PATROL DIVISION

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules.

JAL:RAA:AEA:md

c: Advocacy Unit
Jacques A. La Berge, Chief, North Patrol Division
Don P. Ford, Captain, Palmdale Station
Internal Affairs Bureau
Office of Independent Review (OIR)
Kevin E. Hebert, Captain, Personnel Administration

761551N25A - SH - AD - 32A (11/02)

COUNTY OF LOS ANGELES

# SHERIFF'S DEPARTMENT

"A Tradition of Service"

DISPOSITION SHEET

**DATE:** June 20, 2013
**FILE NO.:** IV2305615

**FROM:** JACQUES A. LA BERGE, CHIEF
NORTH PATROL DIVISION

**TO:** ALICIA E. AULT, CAPTAIN
INTERNAL AFFAIRS BUREAU

**SUBJECT: MATTHEW FUNICELLO #[redacted]**
**DEPUTY SHERIFF**
**PALMDALE STATION**

Upon consideration of the facts developed in this investigation, I have determined that Subject Funicello is to be **discharged** from his position as a deputy sheriff for the reasons set forth in the attached documentation. This decision may be reconsidered based on the employee's response.

Jacques A. La Berge, Chief
North Patrol Division

07/02/13
Date

**CASE REVIEWED BY:**

| | | |
|---|---|---|
| COMMANDER | 07-02-13 Date | HALM ~~WEBB~~ |
| COMMANDER | 7/2/13 Date | JOHNSON |
| COMMANDER | 7/2/13 Date | WEBB ~~HALM~~ |

The evidence in this investigation supports the following charge(s):

1. That in violation of Manual of Policy and Procedures Sections 3-01/050.10, Performance to Standards; and/or 3-01/030.10, Obedience to Laws, Regulations, and Orders [as it pertains to 5-09/430.00, Use of Force Reporting, and/or 149 P.C., Assault under the Color of Authority]; and/or 3-01/030.15, Conduct Toward Others; and/or 3-01/025.10, Unreasonable Force; and/or 3-01/030.85, Derogatory Language; and/or 3-01/030.05, General Behavior, on or about July 21, 2011, Subject Funicello, while on duty, willfully failed to conform to the work standards established for his rank and position as a deputy sheriff when he yelled at and directed derogatory language toward [redacted] an inmate in the custody of the Los Angeles County Sheriff's Department who was apparently suffering from mental illness; and/or failed to safeguard and treat [redacted] in a respectful, courteous, and civil manner when he used unnecessary and excessive force against [redacted] as [redacted] was handcuffed and seated in the rear seat of a patrol car, and under the control and custody of Subject Funicello. Subject Funicello failed to report to a Department supervisor, and/or document the circumstances in which he used force against [redacted] and/or failed to obtain medical treatment for [redacted] after assaulting him. On April 11, 2013, after the District Attorney's Office filed charges in the Los Angeles Superior Court (case # BA409956), a warrant was issued naming Subject Funicello for one felony count of 149 P.C., Assault by a Public Officer. Subject Funicello was booked regarding the arrest warrant bringing discredit to himself and/or the Department as evidenced by, but not limited to the following;

   a. referring to [redacted] as a nigger, and/or coon, and stating to [redacted] "Shut the fuck up," " Learn your place," "When I tell you to shut the fuck up, then shut the fuck up," and "I'm not your fucking dawg,'" and/or words to that effect; and/or,

   b. failing to recognize that [redacted] was suffering from mental illness and appropriately addressing [redacted]s behavior in accordance to the standards, protocols, and expectations of the Department; and/or,

   c. striking [redacted] with his hands and fist approximately six times about the face and body; and/or,

   d. transporting and transferring [redacted] to the Twin Towers Correctional Facility without seeking medical attention for [redacted] and/or alerting the medical staff at Twin Towers Correctional Facility that force was used on

[redacted] and/or,

e. failing to report his use of force against [redacted] to a Department supervisor, and/or document the use of force; and/or,

f. being named as a suspect regarding 149 P.C., Assault by a Public Officer against [redacted]

2. That in violation of Manual of Policy and Procedures Sections 3-01/050.10, Performance to Standards; and/or 3-01/000.10, Professional Conduct; and/or 3-01/040.97, Safeguarding Persons in Custody, on or about July 21, 2011, Subject Funicello, while on duty, failed to conform to the work standards established for his rank and position as a deputy sheriff when he failed to safeguard [redacted] and [redacted] who were both in the custody of the Los Angeles County Sheriff's Department and passengers in his vehicle. Subject Funicello willfully drove his patrol vehicle at speeds in excess of 90 miles per hour, and/or in an unsafe manner abruptly engaged the vehicle's brakes causing [redacted] and [redacted] who were in the rear seat, to involuntarily lunge forward as the vehicle crossed over at least three lanes of highway traffic before stopping. Subject Funicello also entered into the rear seat portion of the vehicle and assaulted [redacted] causing [redacted]s body weight to push against [redacted] as he was avoiding Subject Funicello's assault. [redacted] and [redacted] were handcuffed and confined to the rear seat of the patrol vehicle and she was unable to remove herself from the vehicle. Subject Funicello's conduct was in conflict with the Department's Core Values as he failed to perform his duties honorably, treat [redacted] and [redacted] in a respectful manner, and/or use common sense when interacting with [redacted], who displayed signs of mental illness and mental instability. Deputy Funicello caused undue embarrassment and/or damaged the reputation of the Department and/or eroded the public's confidence in the Department.

3. That in violation of Manual of Policy and Procedures Section 3-01/040.70, False Statements, on or about October 2011, Subject Funicello made false statements when questioned regarding a Watch Commander's Service Comment Report (200681) which alleged he assaulted [redacted] on July 21, 2011, as evidenced by, but not limited to the following:

a. stating to Lieutenant Paul Clay that nothing happened when he transported [redacted] and [redacted] from Palmdale Sheriff's Station to the Twin Towers Correctional Facility, and Century Regional Detention Facility, and/or words to that effect; and/or,

b. stating to Lieutenant Paul Clay, that he never stopped his vehicle when transporting [redacted] and [redacted] from Palmdale Sheriff's

Station to the Twin Towers Correctional Facility and Century Regional Detention Facility, and/or words to that effect; and/or,

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   a. stating, "Yes, ma'am", when asked if he pulled to the shoulder of the 405 freeway in order to fasten [redacted]s seatbelt, and/or words to that effect; and/or,

   b. stating, "Yes, as safely and as quickly as I could. I didn't, you know, I didn't pull a NASCAR or nothing", when asked if he made a quick exit off to the shoulder of the freeway, and/or words to that effect; and/or,

   c. stating "Yes, yeah," when it was suggested that he drove the patrol vehicle

carrying [redacted] and [redacted] at 70 miles an hour, and/or words to that effect; and/or,

d. stating, "I reached in to grab him and he looked as if he was going to spit at me again, and so I pushed his head back and so he wouldn't spit at me, and held him there, so I can get the seatbelt back on him," and/or words to that effect; and/or,

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g. stating, "No," when asked if he referred to [redacted] as a nigger or coon, and/or words to that effect; and/or,

h. stating, "No, ma'am," when asked if he felt it was necessary to report this incident, and/or words to that effect; and/or,

7. That in violation of Manual of Policy and Procedures Section 3-01/040.76, Obstructing an Investigation/Influencing a Witness, on or about July 21, 2011, Subject Funicello took action that could have interfered with, delayed, obstructed, distorted, or unduly influenced an investigation when he confronted [redacted] at the Century Regional Detention Facility as evidenced by, but not limited to:

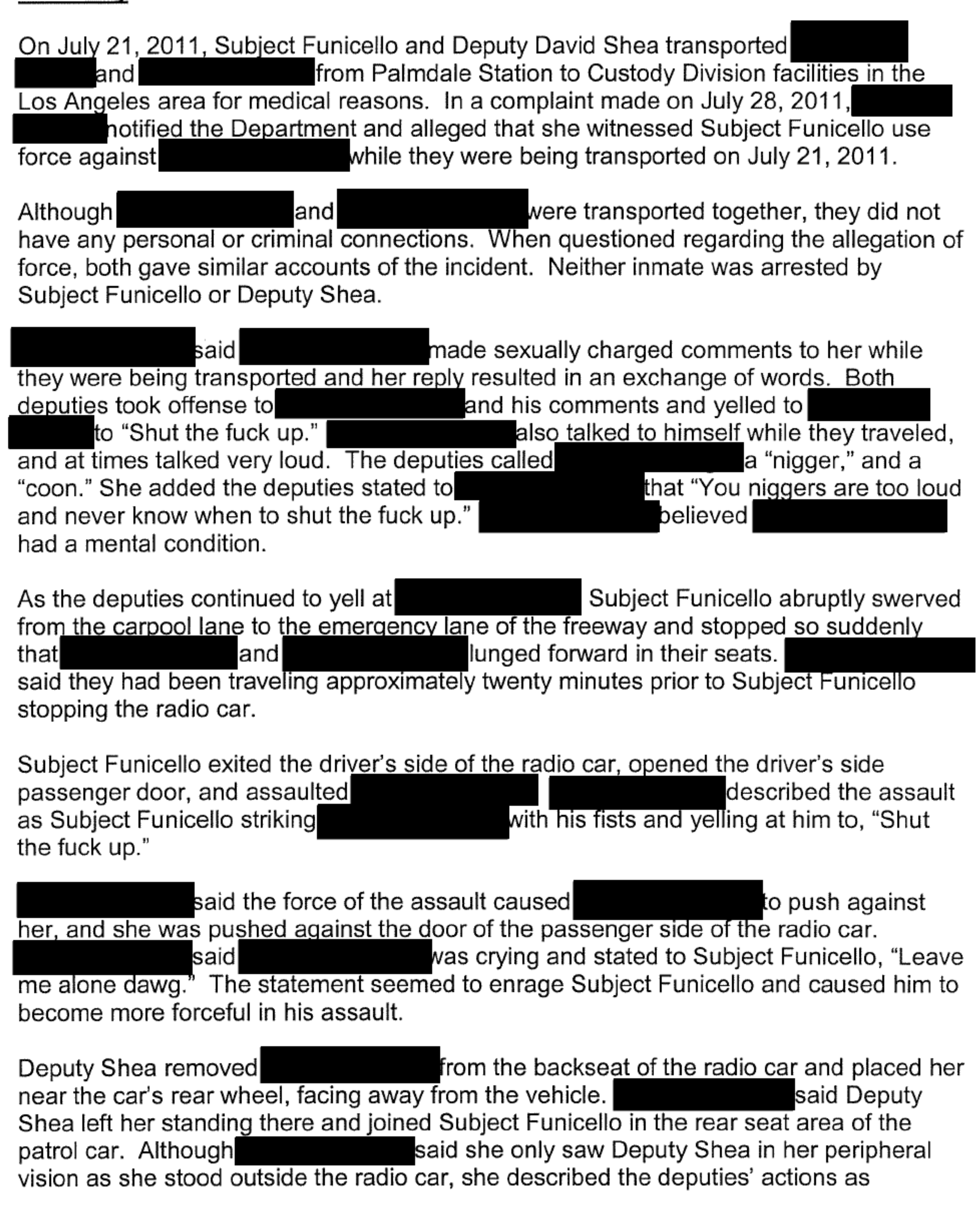
a. attempting to apologize to [redacted] by explaining to her that, "sometimes guys needed to learn their place," and/or words to that effect; and/or,

b. questioning if [redacted] was okay as he told her they were sorry she had to see any of this, and explaining that, "They don't conduct business like this," and/or words to that effect; and/or,

c. asking [redacted] if, "this is gonna be over," and/or words to that effect; and/or,

d. stating to [redacted] "This has never happened," and or words to that effect.

**DISPOSITION WORKSHEET**



**Summary**

On July 21, 2011, Subject Funicello and Deputy David Shea transported [redacted] and [redacted] from Palmdale Station to Custody Division facilities in the Los Angeles area for medical reasons. In a complaint made on July 28, 2011, [redacted] notified the Department and alleged that she witnessed Subject Funicello use force against [redacted] while they were being transported on July 21, 2011.

Although [redacted] and [redacted] were transported together, they did not have any personal or criminal connections. When questioned regarding the allegation of force, both gave similar accounts of the incident. Neither inmate was arrested by Subject Funicello or Deputy Shea.

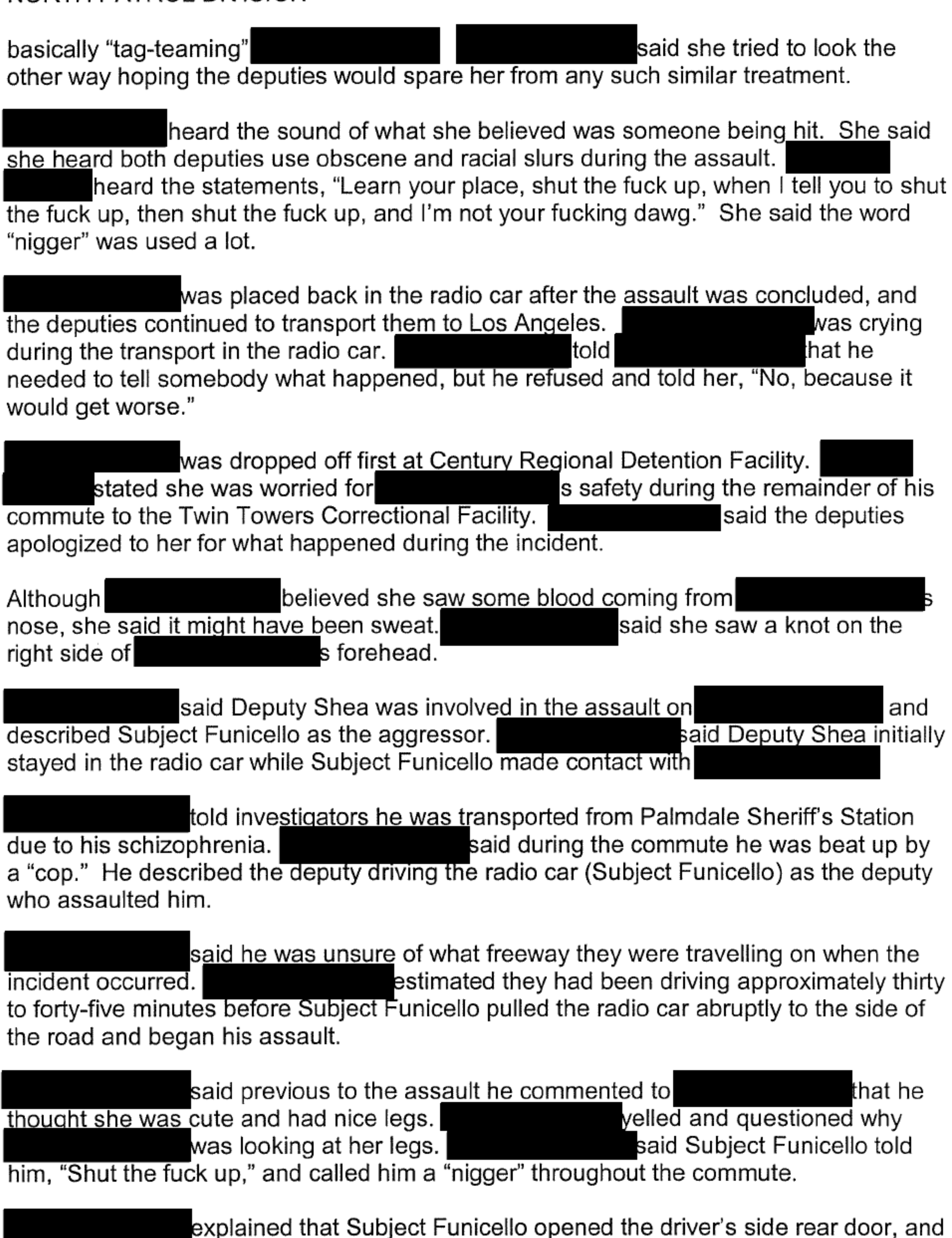
[redacted] said [redacted] made sexually charged comments to her while they were being transported and her reply resulted in an exchange of words. Both deputies took offense to [redacted] and his comments and yelled to [redacted] to "Shut the fuck up." [redacted] also talked to himself while they traveled, and at times talked very loud. The deputies called [redacted] a "nigger," and a "coon." She added the deputies stated to [redacted] that "You niggers are too loud and never know when to shut the fuck up." [redacted] believed [redacted] had a mental condition.

As the deputies continued to yell at [redacted] Subject Funicello abruptly swerved from the carpool lane to the emergency lane of the freeway and stopped so suddenly that [redacted] and [redacted] lunged forward in their seats. [redacted] said they had been traveling approximately twenty minutes prior to Subject Funicello stopping the radio car.

Subject Funicello exited the driver's side of the radio car, opened the driver's side passenger door, and assaulted [redacted] [redacted] described the assault as Subject Funicello striking [redacted] with his fists and yelling at him to, "Shut the fuck up."

[redacted] said the force of the assault caused [redacted] to push against her, and she was pushed against the door of the passenger side of the radio car. [redacted] said [redacted] was crying and stated to Subject Funicello, "Leave me alone dawg." The statement seemed to enrage Subject Funicello and caused him to become more forceful in his assault.

Deputy Shea removed [redacted] from the backseat of the radio car and placed her near the car's rear wheel, facing away from the vehicle. [redacted] said Deputy Shea left her standing there and joined Subject Funicello in the rear seat area of the patrol car. Although [redacted] said she only saw Deputy Shea in her peripheral vision as she stood outside the radio car, she described the deputies' actions as



basically “tag-teaming” [redacted] [redacted] said she tried to look the other way hoping the deputies would spare her from any such similar treatment.

[redacted] heard the sound of what she believed was someone being hit. She said she heard both deputies use obscene and racial slurs during the assault. [redacted] heard the statements, “Learn your place, shut the fuck up, when I tell you to shut the fuck up, then shut the fuck up, and I’m not your fucking dawg.” She said the word “nigger” was used a lot.

[redacted] was placed back in the radio car after the assault was concluded, and the deputies continued to transport them to Los Angeles. [redacted]was crying during the transport in the radio car. [redacted] told [redacted]hat he needed to tell somebody what happened, but he refused and told her, “No, because it would get worse.”

[redacted] was dropped off first at Century Regional Detention Facility. [redacted] stated she was worried for [redacted]s safety during the remainder of his commute to the Twin Towers Correctional Facility. [redacted] said the deputies apologized to her for what happened during the incident.

Although [redacted] believed she saw some blood coming from [redacted]s nose, she said it might have been sweat. [redacted] said she saw a knot on the right side of [redacted]s forehead.

[redacted] said Deputy Shea was involved in the assault on [redacted] and described Subject Funicello as the aggressor. [redacted]aid Deputy Shea initially stayed in the radio car while Subject Funicello made contact with [redacted]

[redacted] told investigators he was transported from Palmdale Sheriff’s Station due to his schizophrenia. [redacted] said during the commute he was beat up by a “cop.” He described the deputy driving the radio car (Subject Funicello) as the deputy who assaulted him.

[redacted] said he was unsure of what freeway they were travelling on when the incident occurred. [redacted] estimated they had been driving approximately thirty to forty-five minutes before Subject Funicello pulled the radio car abruptly to the side of the road and began his assault.

[redacted] said previous to the assault he commented to [redacted] that he thought she was cute and had nice legs. [redacted]yelled and questioned why [redacted] was looking at her legs. [redacted] said Subject Funicello told him, “Shut the fuck up,” and called him a “nigger” throughout the commute.

[redacted] explained that Subject Funicello opened the driver’s side rear door, and

Deputy Shea opened the passenger side rear door. Subject Funicello began hitting [redacted] approximately five to six times with his hands and fists. Deputy Shea remained on the passenger side of the vehicle with [redacted] said Deputy Shea did not hit him.

[redacted] said he basically climbed on top of [redacted] to escape Subject Funicello's assault, but Subject Funicello continued to hit him. [redacted] said Subject Funicello hit him twice on the left side of his cheek and the other strikes were to his body.

[redacted] said at some point, [redacted] was outside of the radio car with Deputy Shea, but he did not see what they were doing.

[redacted]'s medical records did not reveal documentation of visible injuries after he arrived and was processed into the Inmate Reception Center. [redacted] did not complain of injuries when he arrived at the Inmate Reception Center. Subject Funicello and Deputy Shea did not alert the medical screening staff that a use of force occurred.

During the initial Watch Commander's Service Comment Report inquiry [redacted] told Sergeant Jeffrey Curran that he was not mistreated. Lieutenant Clay conducted an additional interview of [redacted] and [redacted] said the deputies, "Beat him up, and hit him all over his body."

Deputy Shea said [redacted] was yelling and being very loud. Deputy Shea and Subject Funicello told [redacted] to, "Stop it," and "Be quiet." Deputy Shea said as they travelled from the 14 freeway to the 5 freeway interchange, he heard [redacted]'s seat belt move and slap against the plastic seats. Deputy Shea said without warning Subject Funicello, "Abruptly pulled over to the side of the road on the freeway," and, "Got out of the car quickly."

Deputy Shea said he was not sure what Subject Funicello was going to do so he also exited the radio car and went over to the driver's side passenger door. Deputy Shea saw that Subject Funicello opened the driver's side passenger door where [redacted] was sitting.

Deputy Shea saw Subject Funicello in the car with one knee on the rear seat and the other foot on the ground. Subject Funicello appeared to be very agitated with [redacted] Deputy Shea said he did not specifically see Subject Funicello striking [redacted]

Deputy Shea said he believed something might escalate to be out of policy but he did not see anything even though he was present during the incident.

Deputy Shea said he walked over to the passenger side of the radio car to check on [redacted] attempted to exit the radio car but he told her to stay seated. Deputy Shea said both he and Subject Funicello re-entered the radio car and completed the remainder of the commute in silence. When they arrived at Century Regional Detention Facility, [redacted] told him, "Hey I'm cool with what happened." Deputy Shea said after [redacted] made that statement it gave him the idea that something had occurred during the incident between Subject Funicello and [redacted]

Deputy Shea did not report the use of force to a supervisor and said it was a "Lack of judgment." He stated, "I believed that I hadn't seen exactly what had occurred exactly so I wasn't gonna make ripples, something I hadn't seen myself." Deputy Shea denied hearing Subject Funicello use the words as nigger, or coon. Deputy Shea denied using those words.

Subject Funicello recalled transporting [redacted] and [redacted] Subject Funicello said within fifteen to twenty minutes into the commute [redacted] and [redacted] began arguing. He did not recall the content of the argument but said he heard [redacted] making sexually explicit remarks to [redacted]

Subject Funicello said he later heard [redacted] unlatch his seatbelt. Subject Funicello said he pulled the radio car over to the shoulder of the freeway and opened the door to re-seatbelt [redacted] scooted over toward [redacted] so he reached into the car to grab [redacted] Subject Funicello said [redacted] tried to spit in his face, but only a mist actually hit him. Subject Funicello said [redacted] looked as if he was going to spit at him again, and so Subject Funicello pushed [redacted]s head to avoid the spit and to reconnect the seatbelt. Subject Funicello said he told [redacted] to, "shut up, be quiet," and "stay still." Subject Funicello said he was able to re-seatbelt [redacted] without further incident.

Subject Funicello denied referring to [redacted] as nigger, or coon.

Subject Funicello did not recall Deputy Shea's actions during the incident. Subject Funicello was asked if his perception of the spitting by [redacted] was assaultive toward him, and he said it was only an inconvenience.

Subject Funicello told Lieutenant Clay that nothing occurred during the transport of [redacted] and [redacted] In a subsequent conversation where Subject Funicello called Lieutenant Clay, he disclosed that they had stopped the radio car so he (Subject Funicello) could re-seatbelt [redacted] Subject Funicello did not tell Lieutenant Clay that [redacted] spit at him because he didn't think it was an issue. He did not mention a use of force.

[redacted] stated that [redacted] did not spit. She said [redacted] had his head ducked down to protect himself against the assault by Subject Funicello.

The Internal Criminal Investigations Bureau (ICIB) case was presented to the District Attorney and on April 11, 2013, the District Attorney's Office filed 149 P.C., Assault by a Public Officer against Subject Funicello.

## DISCIPLINE ASSESSMENT

### Review of Applicable "*Guidelines for Discipline*" Sections

| | |
|---|---|
| General Behavior | Written Reprimand to Discharge |
| Professional Conduct | Written Reprimand to Discharge |
| Obedience to Laws, Regulations, and Orders | 5 to 25 Days |
| Conduct Toward Others | Written Reprimand to 10 Days |
| Unreasonable Force | 5 Days to Discharge |
| Performance to Standards | Written Reprimand to Discharge |
| Derogatory Language | Written Reprimand to 10 Days |
| Safeguarding Persons in Custody | Written Reprimand to 10 Days |
| Failure to Make Statements, and/or Making False Statements During Internal Investigations | 15 Days to Discharge |
| False Statements | Written Reprimand to Discharge |

### Assessment of Aggravating and Mitigating Factors

### Severity of infraction

The use of unnecessary force and failure to promptly and fully report an unreasonable use of force incident is a serious failure in judgment and brings discredit upon the Department and its' members. This conduct adversely affects the public's trust in our mission and the Department's ability to conduct a timely investigation. The use of derogatory language towards others is not consistent with the Department's Core Values. Failing to safeguard a person in the custody of the Department is also a serious breach of the public's trust and expectations of the Department.

**Intent, Truthfulnes, and Acceptance of Responsibility**

Subject Funicello was not truthful and/or complete in his statements during the investigation and interview with Department investigators regarding the incident. He also failed to provide truthful statement to a supervisor conducting the Watch Commander's Service Comment Report inquiry. Subject Funicello's reason for stopping the vehicle and statements regarding his contact with [redacted] were not credible.

[redacted] allegation of assault was corroborated by [redacted] They were not related, associates, or friends. They did not know Subject Funicello or Deputy Shea. Their accounts of the incident were unrehearsed. Deputy Shea was also present during the incident and stated he believed something had occurred between Subject Funicello and [redacted] However, the assault allegation was not made until [redacted] filed a complaint on an unrelated matter.

**Degree of Culpability**

Subject Funicello is solely responsible for his actions in this matter.

**Past Performance and Disciplinary History**

Subject Funicello was hired on the Department in 2007. He has worked at Palmdale Station since 2009 to present.

His last performance evaluation, dated [redacted] rated him as [redacted]

Subject Funicello [redacted] on [redacted] regarding an [redacted]

Subject Funicello [redacted] on [redacted] regarding an [redacted]

**Disposition**

Based upon the foregoing assessment of aggravating and mitigating factors, the following is the level of discipline to be assessed:

__X__ Discharge

_____ Reduction in Rank

_____ Suspension with loss of pay and benefits for___ days

_____ Written Reprimand

_____ No Discipline Recommended

# COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT
# PERSONNEL INVESTIGATION



| DATE | No. OF SUBJECTS | UNIT(S) INVOLVED | I.A.B. FILE No. |
|---|---|---|---|
| May 20, 2013 | 2 | Palmdale Sheriff Station | IV 2305615 |

MANUAL SECTIONS ALLEGEDLY VIOLATED (BY TITLE AND No.)
General Behavior; 3-01/030.05, Obedience to Laws, Regulations, and Orders , 3-01/030.10, Conduct Toward Others; 3-01/030.15

DATE, TIME, DAY OF OCCURRENCE: July 22, 2011, approximately 0200 hours, Tuesday

RELATED URN FILE No. IF APPLICABLE: 912-00006-2003-441

LOCATION OF OCCURRENCE: unknown exact location, somewhere on the Interstate 5 freeway from the 134 freeway

SOURCE OF COMPLAINT: ☐ COMMUNITY ☐ SUPERVISION W/C REPORT No. 200681 ☐ OTHER SOURCES (SPECIFY)

| SUBJECT | LAST NAME | FIRST NAME | M.I. | RANK OR TITLE | EMP. No. |
|---|---|---|---|---|---|
| No. 1 OF 2 | Funicello | Matthew | J. | Deputy Sheriff | [redacted] |

UNIT OF ASSIGNMENT: Palmdale Sheriff Station DATE ASSIGNED: 01-24-10 DIVISION OR REGION: North Patrol Division

STATUS OF SUBJECT: ☐ CONTINUING ON DUTY ☒ RELIEVED OF DUTY - REASSIGNED TO: home ☐ OTHER

| SEX | RACE | HAIR | EYES | HEIGHT | WEIGHT | D.O.B. | AGE |
|---|---|---|---|---|---|---|---|
| Male | White | Brown | Brown | 6' 01" | 180 | [redacted] | [redacted] |

DATE OF HIRE: 12-18-06 DATE APPOINTED TO RANK: [redacted] INTERVIEW TAPE RECORDED ON TAPE 36794 OF SIDE ☐ A ☐ B DATE 02-14-13 TIME 1016

PREVIOUS 7 YEAR FOUNDED INVESTIGATIONS (EXCLUDING TRAFFIC)

| DATE | I.A.B. FILE No. | MANUAL SECTION(S) VIOLATED | DISCIPLINE |
|---|---|---|---|
| [redacted] | [redacted] | [redacted] | [redacted] |
| [redacted] | [redacted] | [redacted] | [redacted] |
| | | [redacted] | |
| | | | |
| | | | |

| SUBJECT | LAST NAME | FIRST NAME | M.I. | RANK OR TITLE | EMP. No. |
|---|---|---|---|---|---|
| No. 2 OF 2 | Shea | David | P. | Deputy Sheriff | [redacted] |

UNIT OF ASSIGNMENT: Palmdale Sheriff Station DATE ASSIGNED: 04-18-10 DIVISION OR REGION: North Patrol Division

STATUS OF SUBJECT: ☐ CONTINUING ON DUTY ☒ RELIEVED OF DUTY - REASSIGNED TO: home ☐ OTHER

| SEX | RACE | HAIR | EYES | HEIGHT | WEIGHT | D.O.B. | AGE |
|---|---|---|---|---|---|---|---|
| Male | White | Brown | Hazel | 5' 08" | 220 | [redacted] | [redacted] |

DATE OF HIRE: 04-12-06 DATE APPOINTED TO RANK: [redacted] INTERVIEW TAPE RECORDED ON TAPE 36590 OF SIDE ☐ A ☐ B DATE 01-17-13 TIME 0950

PREVIOUS 7 YEAR FOUNDED INVESTIGATIONS (EXCLUDING TRAFFIC)

| DATE | I.A.B. FILE No. | MANUAL SECTION(S) VIOLATED | DISCIPLINE |
|---|---|---|---|
| [redacted] | [redacted] | [redacted] | [redacted] |
| | | [redacted] | |
| | | | |
| | | | |
| | | | |

CODE: C - COMPLAINANT, W - WITNESS

ADDITIONAL COMPLAINANTS, WITNESSES, OR SUBJECTS ON SUPPLEMENTAL PAGES ☐ YES ☐ NO

| CODE | LAST NAME | FIRST NAME | M.I. | SEX | RACE | D.O.B. |
|---|---|---|---|---|---|---|
| W No. 1 OF 2 | [redacted] | [redacted] | [redacted] | Female | Hispanic | [redacted] |

RESIDENCE ADDRESS: [redacted] RES. PHONE (AREA CODE) [redacted]

BUSINESS ADDRESS OR UNIT OF ASSIGNMENT: [redacted] CDL OR LASD EMPLOYEE NO. BUS. PHONE (AREA CODE) ( )

INTERVIEW TAPE RECORDED ON TAPE 36099 OF SIDE ☐ A ☐ B DATE 01-06-12 TIME unknown

| CODE | LAST NAME | FIRST NAME | M.I. | SEX | RACE | D.O.B. |
|---|---|---|---|---|---|---|
| W No. 2 OF 2 | [redacted] | [redacted] | [redacted] | Male | Black | [redacted] |

RESIDENCE ADDRESS: [redacted] RES. PHONE (AREA CODE) ( ) [redacted]

BUSINESS ADDRESS OR UNIT OF ASSIGNMENT: [redacted] CDL OR LASD EMPLOYEE NO. BUS. PHONE (AREA CODE) ( )

INTERVIEW TAPE RECORDED ON TAPE 36103 OF 36104 SIDE ☐ A ☐ B DATE 01-05/02-16-12 TIME unknown

| PRIMARY INVESTIGATOR | RANK | EMP. No. | APPROVED | DATE |
|---|---|---|---|---|
| Laura Haynes | Sergeant | [redacted] | Lt Valenzo | 5/30/13 |
| ASSISTING INVESTIGATOR | RANK | EMP. No. | DATE SUBMITTED | |



IF ADDITIONAL SUBJECTS, WITNESSES, COMPLAINANTS OR DISCIPLINE HISTORIES, LIST ON CONTINUATION PAGES.

SHERIFF'S DEPARTMENT PERSONNEL INVESTIGATION

I.A.B. FILE No. IV 2305615



**NARRATIVE SHOULD BE AN OBJECTIVE AND UNBIASED STATEMENT OF THE FACTS; INVESTIGATOR OPINIONS SHALL NOT BE INCLUDED.**

| No. OF ITEMS | LIST EXHIBITS/EVIDENCE FIRST (IF STORED, STATE LOCATION - AUDIO TAPES SHOULD BE CLEARLY LABELED), THEN BEGIN NARRATIVE. |
|---|---|
| | ADMINISTRATIVE RIGHTS FORMS. (ATTACH ONE FORM FOR EACH EMPLOYEE INTERVIEWED) |
| | AUDIO TAPES. ALL INTERVIEWS SHALL BE TAPE RECORDED AND ALL TAPES MUST BE INCLUDED. (LIST EACH INTERVIEWEE BY NAME.) |
| | All recorded interviews are on the IAB Dictaphone Database. |
| | Lybarger Admonishment forms are in the Miscellaneous Documents section of this case file. |

NARRATIVE CAN BE CONTINUED ON SH-AD-49 CONTINUATION FORM OR PLAIN BOND.

**INTERNAL AFFAIRS BUREAU SUMMARY**
**CASE #IV2305615**

| | |
|---|---|
| **Subjects:** | **Matthew Funicello, Employee #[redacted]**<br>**Deputy Sheriff**<br>**Palmdale Sheriff Station**<br><br>**David Shea, Employee #[redacted]**<br>**Deputy Sheriff**<br>**Palmdale Sheriff Station** |
| **Witnesses:** | [redacted]<br><br>[redacted] |
| **Date:** | **July 22, 2011/Tuesday** |
| **Time:** | **approximately 0200 hours** |
| **Location:** | **Palmdale Sheriff Station**<br>**unknown exact location** |

**SYNOPSIS:**

On July 21, 2011, Subject Deputy Matthew Funicello, employee #[redacted] and Subject Deputy David Shea, employee #[redacted] were assigned to transport two handcuffed arrestees from Palmdale Station to Custody Division facilities for medical reasons. One of the arrestees, Witness [redacted] after she was released from custody, made a citizen's complaint on July 28, 2011, about a matter unrelated to Deputy Funicello and Deputy Shea. During the course of the inquiry into the Watch Commander's Service Comment Report, #200681 (Refer to **Exhibit A**, pages **76 and 77**), Witness [redacted] made an allegation that the driver, Subject Deputy Funicello and Subject Deputy Shea stopped their radio car during the transport and physically assaulted the other arrestee, Witness [redacted] due to inappropriate comments Witness [redacted] was making toward her. This allegation was later corroborated by Witness [redacted] who had no prior knowledge and no connection to Witness [redacted]

Both witnesses independently gave a similar account of the incident.

**IAB Note:** Subject Deputy Funicello and Subject Deputy Shea were not involved in either arrest of Witness [redacted] or Witness [redacted] who were arrested independently of each other. Subject Deputy Funicello and Subject Deputy Shea were assigned to transport only.

**IAB Note:** The Internal Criminal Investigations Bureau (ICIB) case was presented to the District Attorney. On April 11, 2013, The District Attorney's Office filed 149 P.C., Assault under the color of authority on Subject Deputy Funicello (Refer to **Exhibit B**, Felony Complaint).

Subject Deputy Shea has not been charged with any crime at this time.

***The following narratives are intended only as a synopsis of the interview. Additional information and precise wording may be obtained by reviewing the audio recorded interview and verbatim transcription.***

**WITNESS STATEMENTS:**

**Witness [redacted]**

Witness [redacted] was interviewed on January 6, 2012, by Internal Criminal Investigations Bureau (ICIB) Sergeant Raymond Moeller, employee # [redacted] and Sergeant John Kniest, employee # [redacted] (Refer to **Exhibit A, pages 15 through 27**).

Witness [redacted] said after her arrest, she was transported for medical reasons with Witness [redacted] During the transport, Witness [redacted] made sexually charged comments toward Witness [redacted] Witness [redacted] said she and Witness [redacted] began to exchange words back and forth. The deputies yelled at Witness [redacted] to "Shut the fuck up," called him "nigger," "coon," and said, "You niggers are too loud and never know when to shut the fuck up." Witness [redacted] said Witness [redacted] "Was talking loud at times, but he was also just talking to himself." She explained she recognized Witness [redacted] had some sort of mental condition. She said two of her [redacted] were autistic and she understood how a person could talk to oneself. Witness [redacted] said she was not going to curse and engage with someone who had a mental condition.

Witness [redacted] said she told the driver, Subject Deputy Funicello, that she was not comfortable in the back seat with Witness [redacted] Witness [redacted] said Subject Deputy Funicello abruptly swerved from the carpool lane to the emergency lane of the freeway and stopped so suddenly, she and Witness [redacted] were thrown forward.

Subject Deputy Funicello exited the driver's side of the radio car, opened the driver side passenger door, "Then beat the living hell out of the male black prisoner." Witness [redacted] said she saw Subject Deputy Funicello striking Witness [redacted] with his fists, yelling at him to, "Shut the fuck up." Witness [redacted] said the force of the assault on Witness [redacted] by Subject Deputy Funicello caused him to push against her, and she was pushed against the door of the passenger side of the radio car. Witness [redacted] said Witness [redacted] was crying and said, "Leave me alone dawg." This term seemed to enrage Subject Deputy Funicello who became more forceful in his assault.

Witness [redacted] said she was removed from the backseat of the radio car by Subject Deputy Shea and placed, "Right next to the car, near the rear wheel, facing away from the vehicle." Witness [redacted] said Subject Shea, "Joined with the driver deputy and basically "tag-teamed" the male prisoner." Witness [redacted] told investigators she only saw the passenger deputy (Shea) in her peripheral vision as she stood outside the radio car. Witness [redacted] said she tried to look the other way, "In the hope the deputies would spare her from any such similar treatment." Witness [redacted] "Heard the commotion in the backseat and the sound of what she believed was someone being hit." She said she heard both deputies use obscene and racial slurs during the assault. Witness [redacted] was asked by investigators what she recalled hearing. She said she heard statements, "Learn your place, shut the fuck up, when I tell you to shut the fuck up, then shut the fuck up, and I'm not your fucking dawg." She said the word "nigger" was used a lot.

Witness [redacted] was placed back in the radio car and the deputies continued on their transport. Once inside the radio car, Witness [redacted] was crying and she told him he needed to tell somebody what happened. Witness [redacted] told her, "No, because it would get worse."

Witness [redacted] said she was dropped off first at Century Regional Detention Facility. Witness [redacted] was worried for Witness [redacted] and what the deputies might do during the remainder of the transport. She said, "The deputies apologized to her. They told her, "Sometimes guys needed to learn their place, and they were sorry she had to witness what had happened."

Witness [redacted] was asked if she saw any injuries on Witness [redacted] when she was placed back inside the radio car. She believed she saw some blood coming from Witness [redacted] nose, although she said it might have been sweat. Witness [redacted] said she saw a knot on the right side of Witness [redacted] forehead.

ICIB investigators asked Witness [redacted] the extent of Subject Shea's involvement. Witness [redacted] said although Subject Shea was involved in the assault on Witness [redacted] "She felt the passenger deputy (Shea) was only involved to seem cool to the driver deputy." Subject Funicello was the prominent aggressor toward Witness [redacted] Witness [redacted] said, "Even when the patrol car was ultimately pulled off the road, the passenger deputy initially stayed in the car while the driver deputy made contact with the male prisoner."

> **IAB Note:** ICIB investigators asked Witness [redacted] if she knew where the radio car was stopped on the freeway when the incident took place. She was shown a map of the area, but told investigators she was not sure what freeway they were travelling on. Witness [redacted] said they had been traveling approximately twenty minutes prior to Subject Deputy Funicello stopping the radio car.

**Witness [redacted]**

Witness [redacted] was interviewed on January 5, 2012, by Internal Criminal Investigations Bureau Sergeant Moeller and Sergeant Kniest (Refer to **Exhibit A, pages 7 through 15, and pages 70 through 74).**

Witness [redacted] told investigators he was transported from Palmdale Sheriff Station due to his schizophrenia. When asked by investigators if anything happened, Witness [redacted] said, "He was beat up." Witness [redacted] was asked who beat him and why, he said, "By the cop." Witness [redacted] said the deputy driving the radio car (Funicello) was the one who had, "Beat him up because he was talking." Witness [redacted] said he was unsure what freeway they were travelling on when the incident occurred, but Subject Deputy Funicello, "Pulled over to the side of the freeway, got out of the car, and beat him up."

Witness [redacted] estimated they had been driving approximately thirty to forty-five minutes when Subject Deputy Funicello pulled the radio car abruptly to the side of the road and began his assault.

Sergeant Moeller described Witness [redacted] as, "Becoming somewhat annoyed with the questions posed by himself and Sergeant Kniest." They explained to Witness [redacted] they were there to ask questions to establish if Department personnel were acting inappropriately, and the questions were necessary.

Witness [redacted] said during the transport, he made a comment to Witness [redacted] that he thought she was cute and had nice legs.

Witness [redacted] yelled at Witness [redacted] why he was looking at her legs. Witness [redacted] said Subject Funicello told him, "Shut the fuck up," and "Called me a nigger sometimes, throughout the ride too."

Witness [redacted] explained after the radio car pulled over to the side of the freeway, "He screeched the wheels and everything, one deputy opened the driver's side rear door, and the other deputy opened the passenger side rear door." Subject Deputy Funicello started hitting Witness [redacted] approximately five to six times with his hands and fists. Subject Deputy Shea remained on the passenger side with Witness [redacted] Witness [redacted] said Subject Deputy Shea did not hit him.

Witness [redacted] said he basically climbed on top of Witness [redacted] to escape Subject Deputy Funicello's assault, but he continued to hit him. Witness [redacted] said Subject Deputy Funicello hit him twice on the left side of his cheek and the other strikes were to the body.

> **IAB Note:** Witness [redacted]s medical records did not reveal documentation of visible injuries after his transport with Subject Deputy Funicello and Subject Deputy Shea, nor did Witness [redacted] make any complaints regarding any injuries (Refer to **Exhibit A, pages 112 through 115).**

Sergeant Moeller asked Witness [redacted] what he could have done to provoke Subject Deputy Funicello to react in such a manner, and he said he had been singing in the radio car.

Witness [redacted] said at some point, Witness [redacted] was outside of the radio car with Subject Deputy Shea, but he did not see what they were doing.

> **IAB Note**: During the initial Watch Commanders Service Comment Report investigation by Lieutenant Paul Clay, employee #[redacted] Witness [redacted] was interviewed by Palmdale Sheriff Station Sergeant Jeffrey Curran, employee #[redacted] In that interview Sergeant Curran asked Witness [redacted] if the arresting deputies mistreated him in any way and he said, "No." Sergeant Curran asked Witness [redacted] if the deputies who transported him mistreated him in any way and he said, "Nah, not so much." Sergeant Curran asked if everyone was "Professional" and he said, "Pretty much." (Refer to **Exhibit A, pages 116 through 122** for Lieutenant Clay's report, and **Miscellaneous documents** for CD of videotaped interview).

**IAB Note:** After the Watch Commander's Service Comment Report was submitted for approval it was returned by Palmdale Sheriff Station Lieutenant Don Ford, employee #[redacted] for follow up. Lieutenant Ford told Lieutenant Clay the interview with Witness [redacted] by Sergeant Curran was inadequate and needed clarification. Lieutenant Clay telephonically interviewed Witness [redacted] who said during the transport the deputies "Beat him up, and hit him all over his body."

**IAB Note**: Internal Criminal Investigations Bureau Sergeants interviewed Lieutenant Clay on January 12, 2012, regarding his investigation into the allegations made by Witness [redacted] (Refer to **Exhibit A, pages 58 through 70).**

**SUBJECT STATEMENTS:**

**Subject Deputy David Shea:**

Subject Deputy Shea was interviewed on January 17, 2013, by Sergeant Laura Haynes, employee #[redacted] and Sergeant Brenda Parker, employee #[redacted] of the Internal Affairs Bureau. Subject Deputy Shea was represented by Charles Goldwasser of the Law Offices of Charles Goldwasser.

Subject Deputy Shea essentially gave the same account as documented by Internal Criminal Investigations Bureau Sergeant Moeller and Sergeant Kniest (Refer to **Exhibit A, pages 28 through 53**).

Subject Deputy Shea recalled the transport of Witness [redacted] and Witness [redacted] but did not know the reason why they were transported. Subject Deputy Shea said Witness [redacted] "Was just yelling out cuss words randomly," and "Being really loud and just yelling at the top of the lungs almost." Subject Deputy Shea said he and Subject Deputy Funicello were telling Witness [redacted] to, "Stop it," and "Be quiet."

Subject Deputy Shea said, "As we were getting to the 14-5 interchange, so we're probably more than half hour more to drive, I remember hearing his seat belt move. The male black's seat belt like slap against the plastic seats in the back." Subject Deputy Shea said without warning Subject Deputy Funicello, "Abruptly pulled over to the side of the road on the freeway," and, "Got out of the car quickly." Subject Deputy Shea said he was not sure what Subject Deputy Funicello was going to do so he also exited the radio car and went over to the driver's side passenger door. Subject Deputy Shea saw Subject Deputy Funicello, had opened the driver's side passenger door where Witness [redacted] was sitting.

He saw Subject Deputy Funicello was, "Hunched into the car, looked like one knee on the seat and the other foot on the ground." Subject Deputy Funicello appeared to Subject Deputy Shea to be very agitated with Witness [redacted] "He was in his face, like really close quarters." Subject Deputy Shea said although he did not specifically see Subject Deputy Funicello striking Witness [redacted] "I believed something might escalate that might be out of policy. But I, I did not see anything occurring that I walked away from. But I thought something might happen."

Subject Deputy Shea said he walked over to the passenger side of the radio car to check on Witness [redacted] She attempted to exit the radio car but he told her to stay seated. Subject Deputy Shea said both he and Subject Deputy Funicello re-entered the radio car and the remainder of the transport was in silence. When they arrived at Century Regional Detention Facility to drop off Witness [redacted] Subject Deputy Shea said Witness [redacted] told him, "Hey I'm cool with what happened." He was asked what his perception of that statement by Witness [redacted] meant to him. Subject Deputy Shea said after Witness [redacted] made that statement, "When I was there at the car, I thought something might happen based on his (Funicello's) behavior. And then when she stated this later, that's when I really had the idea that something had occurred."

Subject Deputy Shea was asked why he did not report the use of force to a supervisor. He said, "Lack of judgement and I believed that I hadn't seen exactly what had occurred exactly so I wasn't gonna make ripples, something I hadn't seen myself."

Subject Deputy Shea denied hearing Subject Deputy Funicello use the words, "Coon," or "Nigger" and he also denied using those words.

**Subject Deputy Matthew Funicello**:

Subject Deputy Funicello was interviewed on February 14, 2013, by Sergeant Laura Haynes and Sergeant Brenda Parker of Internal Affairs Bureau. Subject Deputy Funicello was represented by Deborah Wadleigh, of the Law Offices of Green and Shinee.

Subject Deputy Funicello did not provide a statement to Internal Criminal Investigations Bureau Sergeants.

Subject Deputy Funicello recalled the transport of Witness [redacted] and Witness [redacted] He explained prior to leaving Palmdale Sheriff Station for the transport he recalled seat belting Witness [redacted] and Subject Deputy Shea seat belted Witness [redacted] He recalled that vividly because, "We do it at the same time 'cause it takes two to, you know, so you don't get all up in their business, you know, I'll hand him seatbelt and then he'll buckle and vice versa."

Subject Deputy Funicello said fifteen to twenty minutes into the transport Witness [redacted] and Witness [redacted] began arguing. He did not recall the content of the argument but said he heard Witness [redacted] "Making sexually explicit remarks to her, and then he was, during that time he was making a bunch of mumbo jumbo."

Subject Deputy Funicello said at one point during the drive he heard Witness [redacted] "Popping off his seatbelt while we were driving." He described, "You could hear the click and the ratchet on the seatbelt thing." Subject Deputy Funicello said he pulled the radio car over to the shoulder of the freeway and opened the door to re-seatbelt Witness [redacted] As he, "Opened his door, and I could see him, he was kind of scooched over on to her side whatever. And so I went in to, to grab him to scoot him over here. He spit in my face. Missed, but you know, tell him, missed, he missed but I caught some mist. Does that make sense?" Subject Deputy Funicello said as he reached in to grab Witness [redacted] "He looked as if he was going to spit at me again, and so I pushed his head back and so he wouldn't spit at me, and held him there, so I can get the seatbelt back on him." Subject Deputy Funicello said he told Witness [redacted] to, "shut up, be quiet" and "stay still." Subject Deputy Funicello said he was able to re-seatbelt Witness [redacted] without further incident.

Subject Deputy Funicello was asked if he referred to Witness [redacted] as, "nigger," or "coon," and he said, "No."

Subject Deputy Funicello was asked what Subject Deputy Shea was doing during this altercation with Witness [redacted] but he could not recall.

Subject Deputy Funicello was asked if his perception of the spitting by Witness [redacted] was assaultive toward him, and he said it was, "An inconvenience."

> **IAB Note:** During the Watch Commanders Service Comment Report investigation by Lieutenant Clay, he called Subject Deputy Funicello and asked if anything had occurred during the transport of Witness [redacted] and Witness [redacted] Subject Deputy Funicello told Lieutenant Clay, "No." He said he called Lieutenant Clay back almost immediately and disclosed they had stopped the radio car so he (Funicello) could re-seatbelt Witness [redacted] but that was the extent of the stop. Subject Deputy Funicello was asked if he told Lieutenant Clay at that time about Witness [redacted] spitting at him and he said, "No." When asked why he would not reveal an incident like that, "I didn't feel that it was a big deal in my opinion. I didn't feel like a victim of a crime or anything like that. Somebody doing that to me." He said, "I'm a former marine, I've been to Iraq, I've been shot, I've been shot at. I've seen some fucked up crazy shit. And that was not fucked up crazy shit."

**IAB Note**: Lieutenant Clay contacted Subject Deputy Shea during his Watch Commanders Service Comment Report investigation regarding the transport and if anything occurred. Lieutenant Clay said Subject Deputy Shea told him nothing happened, but did not mention stopping to re-seatbelt Witness [redacted] During the Internal Criminal Investigations Bureau Interview with Subject Deputy Shea, he was asked if Lieutenant Clay contacted him regarding the transport. Subject Deputy Shea told investigators Lieutenant Clay never contacted him to inquire about the transport, and if anything unusual occurred.

**IAB Note**: Witness [redacted]s original statement to ICIB investigators did not mention Witness [redacted] spitting at Subject Deputy Funicello as he stated in his interview. Witness [redacted] was contacted by Sergeant Haynes to clarify if Witness [redacted] spit at Subject Deputy Funicello. Witness [redacted] said she was in the backseat seat belted as was Witness [redacted] When Subject Deputy Funicello opened the radio car door, Witness [redacted] had no time to spit. Witness [redacted] "Had his head ducked down to protect himself from the Sheriff's," and Subject Deputy Funicello's, "Full force shots to his face."

Witness [redacted] was asked if it was possible Witness [redacted] spit at Subject Deputy Funicello while she was out of the radio car and she said she did not think so because the deputies were "Whaling" on Witness [redacted] and he kept his head down.